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EXAMINER

NGUYEN, PHUONGCHAU BA

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,834

Applicant(s)

BARZEGAR ET AL.

Examiner

Phuongchau Ba Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4-12-04 amendment.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10, 13.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections – 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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2. Claims 1, 4-5, 6, 8, 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Farris (6,154,445).

Regarding claim 1:

Farris (6,154,445) discloses in a broadband communication network having multiple access connectivity over a subscriber link with customer premises equipment, a method for providing fail-safe life line telephone connectivity as a backup service between a subscriber server and a central telephone network facility in the event of any malfunction, power outage or equipment failure {fig.2, col.10, lines 11-25} comprising:

Transmitting voice, data and/or signaling information on the local broadband communication network between the subscriber server and the central telephone network facility {fig.2, col.10, lines 11-12};

Detecting a fault in the broadband communication network that causes the subscriber link to be lost {fig.2, col.10, lines 18-25}; and

Maintaining telecommunication service for at least one customer premise telephone unit by switching a connection from the telephone unit to a subscriber link interface connected through a subscriber line to the central

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telephone network facility line when a fault (unsatisfactory quality of service, col.10, lines 17–18) or failure is detected in the broadband communication network in order to provide one or more of the following: battery power, ringing, decoding, out of service testing, supervision of subscriber terminals, normal telephone service {fig.2, col.10, lines 11–25 & col.11, lines 44–47}.

Regarding claim 4:

Farris discloses maintaining telecommunication service by connecting an analog subscriber telephone (12) to the central telephone network facility (SSP 17) through a different connection (14, 16) by bypassing certain multiplexing components in the broadband communication network (Internet 50) {fig.2; col.11, lines 44–47}.

Regarding claim 5:

Farris discloses in a broadband communication network including a central telephone network facility (SSP 17; fig.2) having multiple access connectivity over a subscriber line with customer premises equipment, a

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method of providing fail-safe life line telephone connectivity with a subscriber (pc) telephone unit on customer premises in the event of any malfunction, power outage or equipment failure {fig.2, col.10, lines 11-25} comprising:

providing a primary digital telephone connection (96, 111) via a subscriber server (92) connected to the broadband communication network (internet 50) {fig.2};

transmitting voice, data and/or signaling information over said primary digital telephone connection to the customer premises equipment {fig.2, col.10, lines 11-12}; and

maintaining telecommunication service for said subscriber telephone unit in order to provide a backup analog telephone connection (14, 16) from the subscriber telephone unit through the subscriber link to the central telephone network facility (SSP 17) bypassing circuitry in the subscriber server (92) when a fault (overload or unsatisfactory quality of service) or failure occurs {fig.2, col.10, lines 11-25; col.11, lines 44-47}.

Regarding claim 6:

Farris discloses wherein the primary digital telephone connection (96, 111) comprises connecting a modem (112 in 92; fig.3) at the subscriber server (92) to the telephone network facility (SSP 17){Fig.2}.

Regarding claim 8:

Farris further discloses comprising detecting fault in the subscriber server by identifying a failed polling process (overload at internet) of sending a status signal over a subscriber line {col.11, lines 44-47; col.14, line 57 to col.15, line 4}.

Regarding claim 10:

Farris further discloses wherein the fault in the subscriber server is a modem failure (overload) {col.11, lines 44-47}.

Regarding claim 11:

Farris further discloses wherein providing said backup analog telephone connection enables access to one or more of the following: battery power, ringing, decoding, out of service testing, supervision of subscriber terminals, normal telephone service {fig.2, col.10, lines 18-25}.

Regarding claim 12:

Farris further discloses wherein providing a backup analog telephone connection comprises connecting a subscriber telephone capable of pulse or DTMF dialing to the central telephone network facility through a different connection bypassing certain multiplexing components {fig.2, col.10, lines 11-25}.

Regarding claim 13:

Farris further discloses maintaining telecommunication service by connecting a subscriber telephone capable of pulse or DTMF dialing to the

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central telephone network facility through a different connection bypassing certain multiplexing components {fig.2, col.10, lines 11-25}.

Claim Rejections – 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris in view of McKinnon (6,175,565).

Regarding claims 2-3:

Farris does not disclose the claimed invention wherein detecting a fault in the broadband communication network comprises listening for a status signal from the broadband communication network at the subscriber server and

determining that a network fault exists if the status signal is not received in a threshold period of time.

However, in the same field of endeavor, McKinnon (6,175,565) disclose wherein detecting a fault in the broadband communication network comprises listening for a status signal from the broadband communication network at the subscriber server and determining that a network fault exists if the status signal is not received in a threshold period of time (no response within a time period){col.3, lines 49–59}. Therefore, it would have been obvious to an artisan to apply McKinnon's teaching to Farris's teaching with the motivation being to fasten processing data transmission between phones to network,

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farris in view Henderson (6,101,216).

Farris discloses wherein providing the backup analog telephone connection (14, 16) comprises connecting an analog telephone (12) to the telephone network facility (SSP 13, 17) on the same line (96, 111, 112)

connecting the subscriber server (92) and the telephone network facility (SSP 17).

Farris does not explicitly disclose the analog telephone (12) using a different frequency spectrum than the digital telephone. However, in the same field of endeavor, Henderson (6,101,216) discloses a splitter for transmitting analog data at lower frequency and digital data at higher frequency {col.6, lines 16-20}. Therefore, it would have been obvious to an artisan to apply Henderson's teaching of standard xDSL features of transmitting analog data at POTs frequency (i.e., 4 kHz or below) and digital data at higher frequency (i.e., above 4 kHz) with the motivation being to provide simultaneously transmissions of data and digital on the same twisted pair line. This is a well known practice in DSL.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farris in view of Akers (6,141,330).

Farris does not explicitly disclose wherein said life line connectivity is provided when a fault in the subscriber service is a power failure at the

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subscriber server. However, in the same field of endeavor, Akers (6,141,330) discloses wherein the fault in the subscriber server is a power failure at the subscriber server {col.1, lines 11-31}. Therefore, it would have been obvious to an artisan to apply Akers's teaching to Farris's teaching with the motivation being to prevent data loss in transmission if power is down at internet would cause interruption in the internet.

Response to Arguments

7. Applicant's arguments filed 4-19-04 have been fully considered but they are not persuasive.

A/. Applicant argued that Farris's diversion of voice communication along different route occurs on the shared public internet, PSTN, and public trunk lines for providing relief from a an overload not for providing a backup for a failure related to the subscriber link for multiple devices.

In response to applicant's argument that Farris's diversion of voice communication along different route occurs on the shared public internet, PSTN, and public trunk lines for providing relief from a an

overload, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Also, according to the claimed language reciting, "detecting a fault...that causes the subscriber link to be lost"(claim 1, lines 9-10) or "when a fault...occurs"(claim 5, lines 14-15), in Farris, the detecting of overloading/unacceptable quality of services would cause the subscriber link to be lost as well.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is

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filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuongchau Ba Nguyen whose telephone number is 703-305-0093. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 703-308-6602. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



Phuongchau Ba Nguyen
Examiner
Art Unit 2665

DUC HO
PRIMARY EXAMINER



7-9-04
